



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Reserved on	Pronounced on
30.06.2021	05.07.2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.2481 of 2021

Chinnasamy

... Petitioner/A2

Vs

State Rep.by
The Inspector of Police,
District Crime Branch, Thoothukudi.
Crime No.20 of 2020.

... Respondent/Complainant

Chandran

... Petitioner/ Intervenor/ Defacto complainant
IN CRL MP(MD)No.1587 of 2021
IN CRL OP(MD)No.2481 of 2021

For Petitioner : Mr.V.Malaiyendran, Advocate.
For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor
For Intervenor : Mr.B.Jeyakumar, Advocate

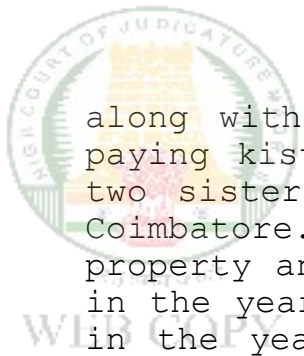
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.20 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A.2, apprehending arrest at the hands of the respondent police for the alleged offence punishable under sections 120(b), 419, 463, 464, 467, 468, 471 and 420 I.P.C., in Cr.No.20 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the father of the defacto complainant is Sivanaintha Perumal and his mother is Annakili Ammal. Both of them died on 07.03.1972 and 16.11.1997 respectively. He along with Pandian, Murugan, Sudalaimani, Jeyakani, Lalitha and Balu are the legal heirs of the parents. 58 cents of land in Survey No.500/1 in Mudivaithanenthal Village belonged to his father. After his father's death, patta was changed in the name of his mother in Patta No.26. The property was enjoyed by his mother from 1984 by doing agriculture. She paid kist to the property. After the death of the defacto complainant's mother, he



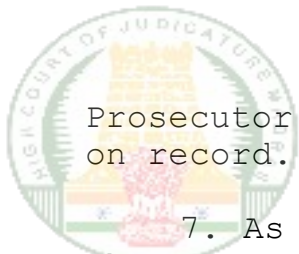
along with other legal heirs have been enjoying the property and paying kist in the name of his mother. Three of his brothers and two sisters had expired and the defacto complainant is living at Coimbatore. The remaining legal heirs wanted to partition the property and they obtained encumbrance certificate. It showed that in the year 2016, there is an entry that as if his mother, who died in the year 1997, sold the property to the second accused. The second accused, in turn, sold the property in October 2017 to the fourth accused. The fourth accused, in turn, sold the property to the fifth accused in December 2017. The enquiry by the defacto complainant revealed that the accused 2 to 5 are friends and relatives and they colluded and conspired together to grab the property of the defacto complainant and his family members. They impersonated his mother Annakili with the help of the first accused, prepared bogus voter I.D. card, and prepared forgery documents. In this sale deed dated 19.01.2016, A.1 and A.5 had signed as witnesses for identification of Annakili Ammal. All these accused had, with an object of cheating the defacto complainant and his family members, created the documents aforesaid. Therefore, this case came to be registered.

3. The learned Counsel for the petitioner submitted that the petitioner is innocent and after filing of this case, the property in dispute was sold to the defacto complainant on 27.01.2020. He filed a copy of this sale deed. Therefore, he seeks anticipatory bail to the petitioner.

4. The learned Counsel for the intervenor strongly opposes this petition on the ground that, may be, that property was sold to the defacto complainant after filing of the case. The manner in which A.2 to A.5 had indulged in the activity of cheating by impersonation, that the first accused was made to impersonate as his deceased mother Annakili Ammal, other accused colluded and conspired to have cheated the defacto complainant establishes a clear case of conspiracy. The petitioner is the prime accused in this case and he had actively participated in these kinds of forged and fraudulent transactions. In support his submission, he produced a copy of the forged sale deed dated 05.10.2017 executed by the second accused to the fourth accused. He also produced a copy of the sale deed dated 15.12.2017 executed by the fourth accused to the sixth accused. He submitted these documents to show that the accused in this case have been working in an organized manner to cheat the innocent public and depriving them of their valuable properties. Therefore, he seeks dismissal of this petition.

5. The learned Additional Public Prosecutor appearing for the State opposes this petition on the ground that since all the accused are absconding, the investigation could not be completed.

6. Heard the learned Counsel for the petitioner, the learned Counsel for the intervenor and the learned Additional Public



Prosecutor appearing for the State and perused the materials placed on record.

7. As narrated above, it is a case where the erstwhile owner of the property in Survey No.500/1, to an extent of 58 cents, in Mudiyaithanental Village, viz., Annakili, who died on 16.11.1997, was impersonated by the first accused. She executed a sale in favour of the second accused in the year 2016. Subsequent transactions had been taken place among A.4 and A.5. Not only that, as submitted by the learned Counsel for the intervenor that the accused had already involved in similar fraudulent transactions. Merely because the disputed property had been sold to the defacto complainant now, the accused cannot be exonerated from the offences committed by them. The sale deed dated 27.01.2021 shows that the defacto complainant was made to part with Rs.1,42,000/- as a sale consideration. In effect, he has not only suffered mental trauma because of this fraudulent transaction, but he was also made to pay Rs.1,42,000/- to claim this property.

8. Petitioner along with other accused had, in an organized daring and systematic way, engaged in cheating innocent public. The second accused has successfully evaded arrest so far, shows that the accused are powerful persons and escaped from the clutches of law. If the petitioners are granted anticipatory bail, the possibility of abscondance and tempering of evidence cannot be ruled out. Taking all these factors into consideration, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

sd/-

05/07/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.
TO

- 1 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, THOOTHUKUDI.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL OP(MD) No.2481 of 2021

Date : 05/07/2021

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<https://hcmv.cse.judis.gov.in/CaseDetails.do?appType=1&appSubType=1&appCode=1&appVersion=1.0.0.0> 05/07/2021/3P.3C